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**REMARKS**

The present amendment is submitted in response to the Office Action dated June 9, 2006, which set a three-month period for response, making this amendment due by September 9, 2006.

Claims 1-4 and 6-10 are pending in this application.

In the Office Action, the objection to the IDS and the rejection under 35 U.S.C. 103(a) with reference to Recep et al were withdrawn. Claims 1-5 and 7-10 now stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,873,461 to Brennan et al in view of U.S. Patent No. 5,679,994 to Shiga et al. Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al in view of Shiga et al, and further in view of U.S. Patent No. 5,105,114 to Sickie et al.

In the present amendment, the specification has been amended to add standard headings and to delete reference to the claims.

Claim 1 has been amended to more clearly define the present invention over the cited references by adding the features of dependent claim 5, which was canceled. The Applicant respectfully submits that amended claim 1 defines a patentably distinct set of features neither shown nor suggested by the cited art.

Brennan discloses an electrical motor with a magnet splinter guard, which is pressed radially outwardly against the permanent magnets by means of two centering rings, which engaged axially in the magnet splinter guard. However, Brennan does not show any overlapping region of the magnet splinter guard in

the tangential direction, rather a gap in the circumference of the magnet splinter guard, as can be seen in Fig. 3 of Brennan (see reference numeral 66). Such a gap in the magnet splinter guard has the disadvantage that magnetic material can flake off through the edges of the magnet splinter guide and move onto the rotor, whereby the functional capability of the electrical motor can be impaired. The fixing of the magnet splinter guard takes place in Brennan exclusively via the centering rings, so that the gap is placed against the magnets based on the radially outwardly directed pressing of the magnet splinter guard.

In Shiga, in contrast, the cylindrical body 4 (which provides no suggestion to the practitioner that this serves as a magnet splinter guard) pressed radially against the magnets 3, such that both ends are displaced axially against one another in the circumferential direction 4a and 4b. In this manner, the circumference of the cylindrical body 4 is increased and is thereby pressed radially against the magnets 3, as described in Shiga, column 3, lines 3-8. Therefore, with this means of attachment of the cylindrical body 4, it is required that the ends 4a and 4b contact one another and brace against one another tangentially (column 2, lines 51-61 and column 4, lines 33-38). So that the ends 4a and 4b do not break away radially when these are pressed against one another, in the embodiment of Figs. 6 and 7, as well as in Figs. 8 and 9, a fold-back portion 6 is arranged with the butting portion 5, which represents a U-shaped guide, for example, for the end 4b. Therefore, the basis for the overlapping of the cylindrical body 4 in Shiga is only the attachment method of

the cylindrical body 4, since the ends 4a and 4b brace on one another, such that the cylindrical body 4 is pressed radially outward against the magnets.

This means that the attachment method of the magnet splinter guard in Brennan and Shiga directly contradict one another, and therefore, the practitioner would not be motivated to combine these references as proposed in the Office Action. If the magnet splinter guard is pressed radially outward by means of the centering ring, a gap exists between the ends of the magnet splinter guard according to Brennan, whereby with Shiga, both ends 4a, 4b must pressed against one another, so that the magnet splinter guard is pressed radially outward.

Therefore, the combination of the Brennan and Shiga references constitutes an ex post analysis, whereby the unbiased practitioner would receive no motivation to modify the embodiment of Brennan with an overlapping of the magnet splinter guard, which represents a U-shaped guide for both ends 4a, 4b that brace against one another.

In addition, neither Brennan nor Shiga mentions that the overlapping of the magnet splinter guard serves to prevent loosened magnet splinters of the outer permanent magnets from contacting the inner rotor. **Both documents relate exclusively to the attachment methods of the outer permanent magnets by means of a "cylindrical body".** This means that that the practitioner would not receive any reason or motivation to combine these two different attachment methods of Brennan and Shiga.

To more clearly recite the above distinction, amended claim 1 defines that "the overlapping region of the magnet splinter guard is located on a (magnet) pole lift 10". This arrangement has the advantage that with the structure of a pole lift 10, the air gap between the magnet splinter guard and the rotor is not reduced by the overlapping of the magnet splinter guard. In this manner, the magnetic efficiency is not negatively affected. The pole lift is described in the specification on page 6, lines 15-18, such that the thickness of the magnet is reduced on its radial inner side at an amount A.

In the Office Action, the Examiner states that with regard to claim 5, Shiga discloses a pole lift in Fig. 6 (reference numeral 3). The Applicant respectfully disagrees. Shiga shows in Fig. 6 the tangential ends of the magnet 3 are rounded; however, the thickness of the magnet 3 is constant over its entire tangential extension. Therefore, for example, in Shiga, the U-shaped guide 5, 6 also is not located in the region of a pole lift, rather tangentially in a gap between two magnets.

The practitioner, therefore, is provided with no suggestion from Shiga to reduce the thickness of the magnets (that is, the pole lift according to the above definition on page 6, lines 15-18), such that in this region, the overlapping of the magnet splinter guard could be located. If one were to arrange the overlapping in the area of the magnets in Shiga, at this position, the inner diameter of the "cylindrical body" would be greatly reduced, which would cause a significant impairment of the air gap, and therewith, of the magnetic efficiency.

Therefore, amended claim 1 is not made obvious by the combination of the Brennan and Shiga patents. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestions supporting the combination. Under Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. The prior art of record fails to provide any such suggestion or incentive. *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 221 USPQ 929, 932, 933 (Fed. Cir. 1984).

For the reasons set forth above, the Applicant respectfully submits that claims 1-4 and 6-10 are patentable over the cited art. The Applicant further requests withdrawal of the rejections and reconsideration of the claims as herein amended.

In light of the foregoing amendments and arguments in support of patentability, the Applicant respectfully submits that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker  
Attorney for Applicant

Reg. No.: 27233  
103 East Neck Road  
Huntington, New York 11743  
631-549-4700